(1)

Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OLEG SOKOLOV - PETITIONEER

v.

LORAD DIVISION OF TREX MEDICAL CORPORATION ET AL. - RESPONDENTS

On Petition For Writ Of Certiorari

To the

APPELLATE COURT OF THE STATE OF CONNECTICUT

PETITION FOR WRIT OF CERTIORARI

My name
OLEG SOKOLOV
Plaintiff pro se

My street Address
40 WONDY WAY
DANBURY, CT 06811
Tel. 203-743-4458

59pp

QUESTIONS PRESENTED FOR REVIEW

1. Whether the trial court was correct in holding that granted defendants' motion for dismissal for failure by plaintiff to obey the court order and noncompliance with said order on May 30, 2000?

2. Whether the trial court was correct in holding that sustained defendants' objection to plaintiff's motion for default and denied plaintiff's motion for judgment of default?

3. Whether the trial court was correct in holding that denied plaintiff's request for amendment of complaint to add recently discovered additional defendant?

4. Whether Appellate Court Of Connecticut was correct in affirmation of judgment of trial court? Whether decision of Appellate Court is in conflict with decision of another Court on the same issue?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

OLEG SOKOLOV - Plaintiff *Pro se*
40 Wondy Way, Danbury, CT 06811

LORAD DIVISION OF TREX MEDICAL CORPORATION - defendant

TREX MEDICAL CORPORATION - defendant

THERMOTREX CORPORATION -defendant

Attorneys for defendants
Jeffrey R. Babbin, Kenneth D. Heath
Wiggin & Dana,
One Century Tower
P.O. Box 1832
New Haven, CT 06508-1832

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the Supreme Court of State of Connecticut appears at Appendix C to the petition and is:
The plaintiff's petition for certification for appeal from the Appellate Court, 69 Conn. App. 905 (AC21200), is denied.
SULLIVAN, C.J., and ZABELLA, J., did not participate in the consideration or decision of this petition.
Oleg Sokolov, pro se, in support of the petition.
Jeffrey R. Babbin and Kenneth D. Heath, in opposition.
Decided July 2, 2002.
Reported 261 Conn. 902.

The opinion of Appellate Court of State of Connecticut to review the merits appears at Appendix A to the petition and is:
OLEG SOKOLOV v. TREX MEDICAL CORPORATION, LORAD DIVISION, ET AL., (AC 21200)
Spear, Dranginis and Hennessy, Js.
Argued April 23 - officially released May 14, 2002
Plaintiff appeal from the Superior Court in the Judicial district of Danbury, Moraghan, J.
Per Curiam. The Judgment is affirmed.
Reported at 69 Conn. App. 905.

The opinion of Superior Court of Connecticut, Danbury Judicial District (Trial Court) appears at Appendix B to the petition and is:
[cv-98-0333637-s], plse be advised on August 28, 2000, the Court (J. Moraghan) entered the following order on defendants' renewed motion for dismissal (#155):
"Granted for failure to obey court order of and noncompliance with said order of May 30, 2000 may enter."
Dfds' mot for modification of scheduling order (# 158) was granted by J. Moraghan on 8/28/2000.
Dfds' objection to ptf's mot for default (# 159) was sustained by J. Moraghan on 8/28/2000.
D. Gumpper, asst. clerk
SUPERIOR COURT
146 WHITE STREET
DANBURY, CONNECTICUT 06810
Unpublished.

JURISDICTION

The Decision the Supreme Court Of the State of Connecticut on July 2, 2002 to deny plaintiff's petition for certification for appeal from the Appellate Court of the State of Connecticut.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATUTES AND RULES

CONNECTICUT GENERAL STATUTES
Sec. 35 - 50
Citations of chapter.
This chapter may be cited as the Uniform trade Secrets Act.
Sec. 35-51 (b) (2) .....Appendix, A1
Definitions. As used in this chapter, unless the context requires otherwise:
(b) "Misappropriation" means: (1) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; (2) disclosure or use of a trade secret of another without express or implied consent by a person who (A) used improper means to acquire knowledge of the trade secret; or (B) at the time of disclosure or use, knew or had reason to know that his knowledge of trade secret was (i) derived from or through a person who had utilized improper means to acquire it;
Sec. 35 -56.
Limitation of action for misappropriation.
No action for misappropriation shall be brought but within three years from the date of misappropriation is discovered or by the exercise of reasonable diligence should have been discovered. For the purposes of this section, a continuing misappropriation constitutes a single claim.

CONNECTICUT RULES OF COURT
p.13 - 14 (b)(1) .....Appendix, A2
p.13 - 14 (b)(2) .....Appendix, A2

p. 10-18. Penalty for Failing to Plead

Parties failing to plead according to this rules and orders of judicial authorities may be non-suited or defaulted as the case may be.

p. 13 - 5. - Protective Order

Upon motion by a party from whom discovery is sought, and for good cause shown, the judicial authority may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in designated way.

p.17 - 32 (b) .....Appendix, A2

p. 70 - 4. Time allowed for Oral Argument. Who may argue.

The time occupied in the argument of any case shall not exceed one-half hour on each side, without special leave of the court, granted before the argument begins. The time thus limited and allowed may be apportioned among counsel on the same side of a case as they may choose. The court may terminate the argument whenever in its judgment further argument is necessary. Except by special permission of the presiding jurist, which permission must be obtained prior to the date assigned for hearing, no more than one counsel shall present oral argument for any one party to the appeal. No argument shall be allowed any party who has not filed a brief or who has not joined in the brief of another party.

STATEMENT OF THE CASE

Plaintiff is PhD in Radiation Physics and MS in Mechanical Engineering, former famous soviet scientist and Engineer, inventor who first in the world invented, produced, marketed and sold the Cellular x-ray Grid Technology what is the major improvement of medical x-ray optics in about last 75 years.

Plaintiff invented and created his Technology in former Soviet Union during more than 20 years, then brought to the USA in 1991 and during next more than four years successfully incorporated it in this country, especially to Lorad's (defendant's) machines.

Plaintiff worked for Lorad during 1992-1995 as Senior x-ray Systems Engineer when successfully incorporated invented by him Cellular x-ray Grid Technology to Lorad's machines. In offer letter on July 2, 1992 Lorad promised, if it would be possible to incorporate plaintiff's Technology to Lorad's products, Lorad would acquire the rights of his Technology.

Instead acquisition Lorad misappropriated plaintiff's Technology, and week after starting with marketing of plaintiff's Technology on 11/06/1995 Lorad fired him.

In reason of misappropriation of his trade secrets on 10/28/1998 pursuant Sec. 35 - 50 and 35 - 51(b)(2) plaintiff filed complaint against Lorad et al to Superior Court of CT, J.B. of Danbury.

During the litigation defendants requested from plaintiff huge numbers of documents including such what contain additional to already misappropriated plaintiff's trade secrets or not relative to subject matter of complaint.

In decision of Oral Arguments 05/30/2000 for defendant's motion to dismiss complaint trial court

ordered plaintiff fully produce defendant's discovery request till 06/08/2000, and this order didn't contain any protection against misappropriation additional plaintiff's intellectual property containing in requested plaintiff's confidential documents, and when plaintiff tried to ask court about such protection during these oral arguments court didn't allow plaintiff the question (See this petition, pages 17-18).

On 06/05/2000 plaintiff filed motion for protective order (Appendix A3-A4) where asked court to rule not to disclose without confidential agreement additional trade secrets which are relevant to subject matter and not to disclose additional trade secrets which are not relevant to subject matter of complaint, this motion was denied; on 06/15/2000 defendants filed objection to plaintiff's motion (Appendix, A5) and on 06/21/2000 plaintiff failed opposition to defendants objection (Appendix, A6-A8). Defendants objection was sustained by trial court first, after that plaintiff opposition to defendants objection of protection order was sustained by trial court on 07/03/2000, and in sustained plaintiff's opposition was clearly indicated that "**...Court deny defendants' objection to plaintiff's motion for protective order on June 15, 2000 and grant plaintiff's motion for Protective Order on June 5, 2000...**" (Appendix, A8).

In compliance with ruling of trial court by mentioned above protective order plaintiff fully supplied defendants by 47 kits requested documents of more than 380 pages excluding two documents what were covered by protective order as confidential and didn't have confidential agreement from defendants and another one what was covered by protection order and didn't have any relation to subject matter of complaint. Therefore in fact plaintiff fully produced defendants' discovery request.

In contrary defendants almost didn't produce documents

on plaintiff's discovery Request dated June 14, 1999. In spite of multitude demands of plaintiff (e. g. in opposition to motion for order of deposition on November 16, 1999; letter on February 21, 2000; motion for protective order on March 15, 2000; objections to motion for dismissal on May 24, 2000 and more) after almost 9 month from date of plaintiff's request on March 2, 2000 defendants produced only one document of two pages from requested by plaintiff twelve documents.

In reason of non complete his discovery request (more exactly almost fully not completed by defendants) plaintiff filed motion of default on 06/12/00 (Appendix A9-A13), and on 06/19/00 defendants filed objection to this plaintiff's motion (Record # 148, pages 116-120).

Defendants' objection was sustained by trial court on 07/03/00, then plaintiff's motion of default was sustained by trial court on 07/03/00 by sustaining plaintiff's opposition to defendants objection to plaintiff's motion of protective order (Record # 149 pages 121-124) where on conclusion (Appendix, A8) clearly indicated that: "...Court deny defendants' objection to plaintiff's motion for protective order on June 15, 2000 and **grant plaintiff's** motion for Protective Order on June 5, 2000 and **motion for default and plaintiff's cost of motion on June 12, 2000.**"

Therefore by trial court was granted not only plaintiff's motion for protective order, but also the plaintiff's motion for default was granted, and plaintiff shouldn't produce to defendants confidential documents with information about additional to already misappropriated by defendants' plaintiff's trade secrets if defendants didn't guarantee conditions provided by this order. Under this order trial court should enter default against defendants.

Nevertheless that plaintiff fully produced documents to defendants under the trial court ruling and in contrary defendants almost didn't produce documents to plaintiff, defendants filed renewed motion for dismissal in reason of non complete by plaintiff defendant's request of production (what in fact, as explained above, was fully completed by plaintiff) on 08/01/00.

In reason of non complete plaintiff's request of production by defendants and in the base of sustained motion of default plaintiff filed motion for judgment of default on 08/07/00.

Defendants' motion of dismissal was sustained and complaint was dismissed on 08/28/00 (Appendix B), and plaintiff's motion for Judgment of default was denied on 09/01/00.

On August 31, 2000 final judgment was mailed to plaintiff.

On September 18, 2000 plaintiff filed appeal to Appellate Court of Connecticut.

On May 14, 2002 the judgment was affirmed by the Appellate Court of Connecticut (Appendix A).

On June 6, 2002 plaintiff filed to Supreme Court of Connecticut Motion for certification.

On July 2, 2002 plaintiff's motion for certification was denied by Supreme Court of Connecticut (Appendix C).

ARGUMENT

1. Whether the trial court was correct in holding that granted defendants' motion for dismissal for failure by plaintiff to obey the court order and noncompliance with said order on May 30, 2000?

During the litigation plaintiff fully answered all interrogatories of defendants and in fact fully supplied them with documents related to all 36 paragraphs of defendant's request and provided at least 47 kits of about 380 pages of documents for all three agreed for proceeding trade secrets (Appendix, A20).
Special explanation needs method of production of information about pattern of cellular grid (cellular grid is basic x-ray optical element of plaintiff's technology). Defendants pushed plaintiff to send to them the last two plaintiff's samples of his grid (first was misappropriated from plaintiff during medical trials of plaintiff's Technology in Lorad's machine where plaintiff installed his sample of grid). One of these last two plaintiff's samples was for mammography contained additional to already misappropriated plaintiff's trade secrets, another sample for general x-ray didn't have any relation to Lorad's mammography business for what worked plaintiff and what plaintiff's trade secrets were misappropriated. Defendants also pushed plaintiff to disclose his patent in pending what is against the rules of USA Patent Office and what is strictly confidential document, contained additional plaintiff's trade secrets and actually had nothing related to facts of misappropriated by defendants plaintiff's trade secrets and in addition plaintiff didn't have confidential agreement from defendants.

In connection with rules of trial court by protective order plaintiff didn't submit his mammography grid because he didn't have confidential agreement from defendants, he didn't submit the grid for general x-ray because it had no relations to subject matter of complaint and he didn't submit the patent in pending in both described above reasons.

Plaintiff has to note that in the same time as he didn't produce his things (2 grids) and one patent in pending in compliance with indicated above protection order, defendants didn't produce 11 documents from requested 12 (Appendix, A10) and among non produced documents defendants rejected to produce their grid without any excuses or protective order. (Appendix, A14).

Grids for mammography of both parties or, more exactly, their x-ray images are necessary for comparison of their patterns claimed by plaintiff as misappropriated by defendants.

Plaintiff tried to solve the problem to avoid any misappropriation of his additional intellectual properties by submitting the x-ray picture with x-ray image of his grid containing it pattern (Appendix, A15) for comparison with the same of defendants. The visual comparison of x-ray images of grids without instrumental measurements is only one method of determination of identity of pattern and in the same time it protected against misappropriation additional plaintiff's trade secrets. This proposal was rejected by defendants. (Appendix, A15)

One more time plaintiff tried to submit his pattern in his letter with proposal for the mutual testing both samples: plaintiff's and defendants' with present of representatives of both parties who would care each of it own grid during the test time and keep grids safely at each party's own against misappropriation (Appendix, A16-A19). No answer plaintiff received for his second proposal.

Defendants insisted only on sending to them plaintiff's grid for their testing without confidential agreement nevertheless plaintiff had protective order from the trial court.

It is obviously that they tried to obtain plaintiff's grid for taking additional his trade secrets and to avoid objective testing their grid with plaintiff's grid because it would

establish identity of their patterns. In the same time defendants rejected to send to plaintiff sample of their grid for testing (Appendix, A14) nevertheless they didn't have any excuses or protections from the trial court and it is also clear that they tried to avoid objective testing for establish identity of it pattern with plaintiff's sample.

About pattern: the pattern is "...a distinctive stile, model or form, an original or model considered for or deserving of imitation, an example, instance, sample or specimen..." (Random House College Dictionary). Pattern of plaintiff's cellular grid as pattern of any other grids is geometrical tracery visible on the x-ray picture of grid. Identical of pattern in plaintiff and defendants' grid is one of three agreed with defendants for prosecution claimed plaintiff's trade secrets (Appendix, A20).

As mentioned above plaintiff tried to submit to defendants pattern of his grid two times: during the deposition on June 8, 2000 and by letter on July 26, 2000 where proposed mutual test both plaintiff's and defendants' grids with protection against misappropriation his another trade secrets. Both these plaintiff's proposals weren't accept by defendants because opened the door for confirmation of identity of plaintiff and defendants' patterns and didn't give to defendants access to plaintiff's additional trade secrets.

As shown above plaintiff in fact submitted all documents to defendants including confidential documents like pattern even he had protective order of the court **(page 6 of this petition, Appendix A8)** and didn't have from defendants any protection documents required by protective order.

In contrary defendants submit almost nothing to plaintiff's request even they didn't have any excuses or protective documents from the court.

Nevertheless that plaintiff completed defendants' discovery actually in full and defendants produced for plaintiff's discovery actually almost nothing, defendants ignored these facts and filed renewed motion for dismissal in reason for non completed by plaintiff discovery request (Record, # 155, pages 136- 143).

Nevertheless plaintiff in his objections informed the trial court that he completed discovery in full under the rules of court by order on 05/30/00 and protective order for confidential part of his discovery sustained by trial court on 07/03/00, the trial court trusted in some reason only to defendants and, without requesting from plaintiff any necessary clarifying information, dismissed complaint and created conflict between trial court protective order 07/03/00 and the same court dismissal order 08/28/00.

Plaintiff believes that dismissal of complaint is error of trial court.

2. *Whether the trial court was correct in holding that sustained defendants' objection to plaintiff's motion for default and denied plaintiff's motion for judgment of default?*

As showed above, defendants after almost 9 month of intensive demanding by plaintiff produced only 1 document from 12 kits requested by plaintiff (Appendix, A10-A13), and for this microscopic production made after almost nine month from date of request plaintiff had to insist to defendants many times beginning June 14, 1999. Plaintiff informed trial court about this not production by defendants in his opposition in reply to the motion for order of deposition on 11/16/99, in motion for protective order on 03/15/00, in objections to motion for dismissal filed May 24, 2000 and during oral arguments on trial court non 05/30/2000 (Appendix, A11-A12).

Therefore trial court was fully informed by plaintiff about defendants' non production and as shown below no sanctions by trial court against defendants were taken. Especially plaintiff has to state about refusing by defendants to submit their mammography grid for plaintiff's examination (Appendix, A14). Note: actually only for not produced grid, unjustly alleged to plaintiff, complaint was dismissed.

In reason that defendants didn't produce almost all of requested by plaintiff documents and didn't have any reasons for non production (like protective order) pursuant p.13-14 (b)(1) and 13-14(b)(2) of Connecticut rules of Court plaintiff filed motion of default and plaintiff's costs of motion on June 12, 2000 (Record # 148, pages 109 - 115).

Defendants filed objection to this motion on June 20, 2000 (Record, #148) and this objection was sustained by trial court on 07/03/00, then plaintiff's motion for default was sustained by trial court (Record, # 149, pages 121-124) where on conclusion (page 122) clearly indicated that: "...Court deny defendants' objection to plaintiff's motion for protective order on June 15, 2000 and grant plaintiff's motion for Protective Order on June 5, 2000 and motion for default and plaintiff's cost of motion on June 12, 2000." (Appendix, A8)

Therefore plaintiff's motion for default was granted by trial court, and on the base of granted motion of default pursuant p.17-32 (b) of Connecticut Rules of Court plaintiff filed motion for judgment of default on 08/07/00 (Record, # 157, pages 150-152) and on 08/11/00 defendants filed objection to this motion (Record, # 159, pages 153-155).

Plaintiff's motion for judgment of default was denied

09/01/00 (Judge Carroll) and defendants' objection to this motion was sustained (Judge Moraghan) on 08/28/00 nevertheless on 07/03/00 Judge Moraghan sustained plaintiff's motion for default.
Plaintiff believes that documents of Record clearly show that denying of his motion for judgment of default is also error of trial court.

3. *Whether the trial court was correct in holding that denied plaintiff's request for amendment of complaint to add recently discovered additional defendant?*

From defendants' responses to plaintiff's interrogatories mailed on September 13, 1999 plaintiff first definitely learned that manufacturer for Lorad of Cellular Grids filled by air (plaintiff's name of his Technology) or HTC Cellular Grid System (Lorad's name of plaintiff's Technology) is Thermoelectron Tecomet. Plaintiff supposed this before (as described in complaint) but he didn't have the definite proof by documents about manufacturer of cellular grids and he believed that he couldn't file complaint against manufacturer if he didn't have the proof by documents, it means that actually plaintiff didn't discover the fact of misappropriation by Thermoelectron Tecomet.
Beginning September 15, 1999 when plaintiff received the writing confirmation of this fact from defendants he really discovered that Thermoelectron Tecomet participated in misappropriation of his trade secrets together with Lorad, and from this date September 15, 1999 pursuant Sec. 35-56 of Connect. Gen. Stat. plaintiff has three years for filing complaint about misappropriation of his trade secrets pursuant Sec. 35-51 (b)(2) of Conn. Gen. Stat.

On 07/03/00 plaintiff filed request for amendment of complaint as to add Thermoelectron Co. as defendant for

misappropriation of plaintiff's trade secrets (Record, # 150-05); on 07/07/00 defendants filed objection (Record, # 152) and on 07/18/00 supplemental objection (Record, # 153). Plaintiff's motion was denied and defendants' objections were sustained on 07/24/00 (Judge Carroll). Plaintiff failed motion for reconsideration and/or to reargue for amendment of complaint to add Thermoelectron Co. as defendant on 08/15/00 (Record, #161). This plaintiff's motion also was denied. Plaintiff believes that Record clearly show that before September 15, 1999 plaintiff didn't have the proof by documents about participation of Thermoelectron Tecomet in misappropriation of plaintiff's trade secrets, therefore plaintiff didn't have real ground for discovery and only beginning September 15, 1999 from defendants' answers to plaintiff's interrogatories plaintiff fully discovered this participation. From this time pursuant Sec. 35-56 of Conn. Gen. Stat. plaintiff has three years for filing of complaint. Therefore mentioned above request of amendment of complaint was filed by plaintiff on time and denying to add to complaint another defendant is also error of trial court.

4. Whether Appellate Court of Connecticut was correct in affirmation of judgment of trial court? Whether decision of Appellate Court is in conflict with decision of another Court on the same issue?

On July 2001, Connecticut Supreme Court issued a decision in *Millbrook Owners Association v. Hamilton Standard*, 257 Conn. 1 (2001) (Appendix, A22), in which on pages 17 an 18 it clarified the standard of review for the imposition of sanctions for violations of discovery orders: (1) the order violated must be reasonably clear; (2) the record must establish a violation of the order; (3) the sanction imposed must be proportional to violation.

The Appellate Court found that all of these elements are present in appealed Trial's Court decision.
Plaintiff believes that affirmation by Appellate court of judgment of Trial Court was error because order of Trial Court for complete discovery request doesn't meet the *Millbrook Standard*, this order wasn't clear because didn't rule for protection or not protection against misappropriation by defendants additional plaintiff's trade secrets containing in requested by defendants documents, record shows multiple attempts of plaintiff to obtain from court such protection and finally he obtained it by protective order, therefore the record doesn't establish the violation of order and therefore no any sanctions of violation of order should be taken.

Here's the citation of mentioned order:

ORDER: Sokolov, Oleg vs. Lorad Division of TR cv-98-0333637-S.
The defendant's motion to dismiss (#139.00) having been heard, it is hereby ordered: the deposition of the plaintiff is to take place at 9:00 AM on June 8, 2000 in the defendant's attorney's office located at 3 Stamford Place, 301 Tresser Boulevard, Stamford, CT 06901. The plaintiff is to produce documentation in response to discovery and submit to the deposition or the case will be dismissed at the end of June 2000.
By the Court (Moraghan, J. - 5/30/00).
Diane D. Savinelli (temp. asst. clerk)
Superior Court 146 White Street Danbury, Connecticut 06810.
Dated: June 01, 2000 (Appendix, A21).

Trial Court didn't rule in it Order how to protect plaintiff against misappropriation by defendants of his additional intellectual property containing in some of documents and things listed in defendant's discovery request. Before hearing of defendants' motion for

dismissal on May 30, 2000 plaintiff claimed necessity of protection his additional intellectual property against misappropriation in his opposition in reply to the motion of order of deposition on November 16, 1999 (Record # 130, page 76-79) and in his objections to motion for dismissal on May 24, 2000 (Appendix, A24-A27).

Plaintiff also tried to clarify the protection from misappropriation by defendants of his additional trade secrets on his oral arguments during the hearing on May 30, 2000 when by Trial Court was ordered to plaintiff to complete defendants' request, but trial court didn't allow to plaintiff any questions after court's order.

Here're quotations from hearings of Trial Court and Appellate Court:

Trial Court, May 30, 2000.

THE COURT: Mr. Sokolov, do you understand that order? You are submit to a deposition, June 8th, ten o'clock, their office, 3 Stamford Plaza at 301 Tresser Boulevard in Stamford. You have until end of the month to produce these documents that have not been produced, or I will grant the motion for dismissal. Do you understand me?
MR. SOKOLOV: I understand. But I have a question.
THE COURT: Very well.
*)MR. SPERANZA: Thank you, your Honor.
MR. SOKOLOV: I cannot ask the questions?
THE COURT: that's all.
MR. SOKOLOV: Okay. Thank you.
(Whereupon, the hearing was concluded.) (Transcript of hearing of Danbury Court, CT, Judge Moraghan on May 30, 2000, page 16 lines 12- 26, page 17, lines 1-4).

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*) Mr. Speranza - attorney for defendants.

Appellate Court, April 23, 2002.

JUDGE DRANGINIS: What do you make of Dr. Sokolov's question on that page, the deposition:
" I understand but I have a question" and court doesn't let him ask it?
**)ATTORNEY HEATH:
The honest answer, your Honor, is I don't know what to make of that because we don't know what his question was.
JUDGE DRANGINIS: Well, I mean, under you know, standard of review, the clarity of orders, I don't know whether or not that comes into play under *Millbrook*. And that's only reason I ask this question. I don't know if you were there that day.
ATTORNEY HEATH: I was not there-
JUDGE DRANGINIS: And it is not a long transcript as I read it. But at the very end, you know, "I cannot ask the questions." And Court says: "That's all" And Mr. Sokolov says "Okay. Thank you." (Appellate Court of CT, Transcript of hearing April 23, 2002, page 12 lines 24 -27, page 13, lines 1-12);

.....

MR. SOKOLOV: My last question, which wasn't answered by Judge Moraghan which I tried to ask him: What I have to do with my additional trade secrets. I have to submit them or I have not and he didn't answer. He said that's all. So I didn't have another way as to file the motion for protective order.
(Appellate Court of CT, same transcript, page 20, lines 20 -25).

**) Attorney Heath - attorney for defendants.

The quotations of hearings clearly indicate that trial's court order wasn't reasonably clear, in contrary it was so much unclear regarding to possibility under this order to encourage defendants for misappropriation of additional plaintiff's trade secrets or to prohibit to them to do so, that required from plaintiff to file the motion for protective order for clarification, which, as shown above, after two rejections finally was sustained.

Plaintiff believes that decision of trial Court about dismissal of complaint doesn't meet first requirement of *Millbrook Standard* and also that affirmation of this decision by Appellate court of Connecticut is in conflict with first requirement of decision of Connecticut Supreme Court in *Millbrook Owners Association v. Hamilton Standard*, 257 Conn. 1 (2001).

Plaintiff built his position exactly under the ruling of Trial's Court Order on May 30, 2000 and of Protective Order mailed on June 5, 2000, filed on June 9, 2000 and sustained by Trial Court on July 3, 2000 and no any failures to obey Court Order of and noncompliance with said order plaintiff didn't have.

Plaintiff's documents filed to the trial court and listed in Record (motion for protective order sustained by trial court by sustaining plaintiff's opposition to defendants' objections to plaintiff's motion for protective order, motion for judgment of default, plaintiff's objections to renewed motion of dismiss) clearly indicate that plaintiff strictly followed court rules, obeyed court orders and produced to defendants the documents in full under mentioned court rules. In contrary defendants produced almost nothing to plaintiff in spite of multiple plaintiff's demands, informing about non producing of Trial Court and requesting of Trial Court sanctions.

Plaintiff believes that Record indicates that decision of trial Court about dismissal doesn't meet also second requirement of *Millbrook Standard* and that affirmation of this decision by Appellate court is in conflict also with second requirement of decision of Connecticut Supreme Court in *Millbrook Owners Association v. Hamilton Standard.*

Because no violations of court orders plaintiff made, no sanctions of trial court against plaintiff should take place.

Plaintiff believes that decision of trial Court about dismissal of complaint doesn't meet also third requirement of *Millbrook Standard* and that affirmation of this decision by Appellate court is in conflict also with third requirement of decision of Connecticut Supreme Court in *Millbrook Owners Association v. Hamilton Standard.*

SPECIFIC INFORMATION

1. Plaintiff believes that misappropriation of intellectual properties by companies from individuals is unacceptable for this democratic country because as result talented people usually have emotional stress, mostly depressed and fully or partly lose the possibilities to continue their innovation, and this is only because these individuals don't have money for attorneys and experience in legal practice to defend their intellectual property against misappropriation. Plaintiff believes that this is very big lose of intellectual potential of the country, of the progress of technologies and growing of economy. Plaintiff believes also that is good idea if country would to help individuals to defend their intellectual properties against misappropriation by companies. Plaintiff propose to use the country's

powerful for saving it intellectual potential in interest of defending of talented individuals, acceleration of progress of technologies and culture and to build the stronger economy.

Plaintiff propose for reasonable solving of this problem to create the government legal institution for defense of intellectual properties of poor talented individuals. The budget of such institutions may be built from suitable parts of settlements awarded by courts to winning individuals and also from lost companies - defendants' payments of costs and attorneys fee.

Plaintiff believes that protection and defend of individuals like plaintiff against misappropriation of their intellectual properties and proposed government institution for this purpose is big public important of this case.

Cellular x-ray grid Technology is newest achievement in x-ray medical diagnostic technology invented and brought to the health system by plaintiff. This Technology just started to be developed, improved and to move to each of x-ray diagnostic department in the country to improve the quality of x-ray diagnostics especially for much earlier and much precision diagnostics such illnesses as for e. g. cancer, cardiac and cardiovascular diseases, different traumas and pneumonia, which will safe life and health of thousands and thousands of people. To bring his technology to whole country should be first priority of plaintiff who is one of the world leader in science of x-ray imaging technologies. But work of plaintiff for human benefits is blocked by his battle for justice.

Plaintiff believes that to help him to find the justice, to make him free to work for people's health is another big public importance of this case.

2. On the Oral Arguments, which took place on Appellate Court on April 23, 2002, defendants were represented by two attorneys (both of them located before Judges on the desk of defendants and occupied two chairs.)
One of these attorneys was Kenneth D. Heath who reported to Judges, another Jeffrey R. Babbin who assisted to Mr. Heath during the appearance with documents and prompted him during his report, and they discussed between them during appearance of plaintiff and confused him, limited his possibility to concentrate on the subjects of his appearance and to remember all points what he had to explain to judges. Plaintiff believes that representing of one party by two attorneys on the Oral Argument is violation by defendants p. 70-4 of Connecticut Rules of Court what clearly indicates that "... no more than one counsel shall present oral argument for any one party to the appeal."

3. Upon information and belief defendants recently had the number of another, not plaintiff's only, lawsuit cases for misappropriation of intellectual properties. There are cases about infringement by defendants of two patents of Fisher Imaging Co. and patent of N. Yanaki. Upon information on June 10, 2002 of NYSE Fisher Imaging Co. won the case against defendants and will receive from defendants a total $32.2 million of patent-infringement lawsuit settlement.

Therefore misappropriation of plaintiff's trade secrets by defendants was not the single incident; it is the regular practice of these companies what has the intensive experience of misappropriation of intellectual property.

REASONS FOR GRANTING THE PETITION

1. Affirmation of Judgment by Appellate Court of CT is in conflict with Decision of Connecticut Supreme Court on July 2001 in *Millbrook Owners Association v. Hamilton Standard,* 257 Conn. 1 (2001).

2. Decision of trial court of dismissal for failure to obey court order of and noncompliance with said order of May 30, 2000 is in conflict with this court order on 7/3/2000 granted to plaintiff protective order not to disclose to defendants additional to already misappropriated plaintiff's trade secrets without protection against additional misappropriation and in conflict with Decision of Connecticut Supreme Court on July 2001 in *Millbrook Owners Association v. Hamilton Standard,* 257 Conn. 1 (2001).

3. The public importance is involved.

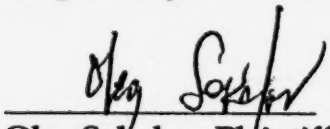
4. Violation by defendants sec. 70-4 of Connecticut Practice Book by representing them of two counsels on the Oral Argument before Appellate Court on April 23, 2002.

CONCLUSION

In reason of conflict of Trial Court order of dismissal of complaint and affirmation of judgment by Appellate Court of Connecticut with *Millbrook Owners Association v. Hamilton Standard,* 257 Conn. 1 (2001) and also in reason of big public importance of this case the judgment of trial court to dismiss the complaint should be reversed and the case remanded for a full hearing on the issues raised by plaintiff-appellant.

The petition for a writ of certiorari should be granted.

Respectfully submitted



Oleg Sokolov, Plaintiff *pro se*

September 25, 2002

APPENDICES

The opinion of Appellate Court of State of Connecticut to review the merits

OLEG SOKOLOV v. TREX MEDICAL CORPORATION, LORAD DIVISION, ET AL., (AC 21200)
Spear, Dranginis and Hennessy, Js.
Argued April 23 - officially released May 14, 2002
Plaintiff appeal from the Superior Court in the Judicial district of Danbury, Moraghan, J.
Per Curiam. The Judgment is affirmed.
Reported at 69 Conn. App. 905.

The opinion of Superior Court of Connecticut, Danbury Judicial District (Trial Court)

[cv-98-0333637-s], plse be advised on August 28, 2000, the Court (J. Moraghan) entered the following order on defendants' renewed motion for dismissal (#155): "Granted for failure to obey court order of and noncompliance with said order of May 30, 2000, a dismissal may enter."

Dfds' mot for modification of scheduling order (# 158) was granted by J. Moraghan on 8/28/2000.

Dfds' objection to ptf's mot for default (# 159) was sustained by J. Moraghan on 8/28/2000.
D. Gumpper, asst. clerk

SUPERIOR COURT
146 WHITE STREET
DANBURY, CONNECTICUT 06810

Unpublished

The opinion of the Supreme Court of State of Connecticut to review the merits

The plaintiff's petition for certification for appeal from the Appellate Court, 69 Conn. App. 905 (AC21200), is denied.
SULLIVAN, C.J., and ZABELLA, J., did not participate in the consideration or decision of this petition.
Oleg Sokolov, pro se, in support of the petition.
Jeffrey R. Babbin and Kenneth D. Heath, in opposition.
Decided July 2, 2002.
Reported 261 Conn. 902.

STATUTES AND RULES

CONNECTICUT GENERAL STATUTES
Sec. 35 - 50
Citations of chapter.
This chapter may be cited as the Uniform trade Secrets Act.
Sec. 35-51 (b) (2)
Definitions. As used in this chapter, unless the context requires otherwise:
(a) "Improper means" included theft, bribery, misrepresentation, breach or inducement of a breach of duty to maintain secrecy, or espionage through electronic or other means.
(b) "Misappropriation" means: (1) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; (2) disclosure or use of a trade secret of another without express or implied consent by a person who (A) used improper means to acquire knowledge of the trade secret; or (B) at the time of disclosure or use, knew or had reason to know that his knowledge of trade secret was (i) derived from or through a person who had utilized improper means to acquire it; (ii) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use, including but not limited to disclosures made under section 1-19, sections 31-40j to 31-40p, inclusive, or subsection (c) of section 12 - 62; or (iii) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or (C) before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.
(c) "Person means a natural person, corporation, limited liability company, business trust, estate, trust, partnership, join venture, government, governmental

subdivision or agency, or any legal or commercial entity(d) Notwithstanding the provisions of sections 1-19, 31-40j to 31-40p, inclusive, and subsection (c) of section 12-62, "trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, process, drawing, cost data or customer list that: (1) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

CONNECTICUT RULES OF COURT
p.13 - 14 (b)(1) The entry of a nonsuit or default against the party failing to comply;
p.13 - 14 (b)(2) The award to discovering party of the costs of the motion, including a reasonable attorney's fee.
p.17 - 32 (b) If a party who has been defaulted under this section files an answer before a judgment after default has been rendered by judicial authority, the clerk shall set aside the default. If a claim for a hearing in damages or a motion for judgment has been filed the default may be set aside only by judicial authority. A claim for a hearing in damages or motion for judgment shall not be filed before the expiration of fifteen days from the date of notice of issuance of the default under this subsection .

OLEG SOKOLOV, Plaintiff, vs.
TREX MEDICAL CO., and THERMOTREX CO., (as amended) Defendants
STATE OF CONNECTICUT SUPERIOR COURT J. B. OF DANBURY AT DANBURY **Docket No. CV 98 0333637 S**

PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

(Record # 142)

June 5, 2000

Plaintiff hereby respectfully requests pursuant to p. 13-5 of Practice Book the Protective Order for deposition to Plaintiff ordered by court on May 30 (Judge Radcliffe, J) for:

1. Pursuant to p. 13-5 (7) of Practice Book nondisclosure by plaintiff to defendants the additional to already disclosed and misappropriated by defendants plaintiff's trade secrets relevant to subject matter of complaint by production of documents to defendants without signed confidential agreement first.
2. Pursuant to p. 13- 5 (7) of Practice Book not disclose to defendants plaintiff's trade secrets not relevant to subject matter of complaint.
3. Pursuant to p. 13-5 general of Practice Book not to disclose information which may cause plaintiff's undue expense.

PLAINTIFF *pro se* s/Oleg Sokolov, 28 Rose Lane # 38, Danbury, CT 06811, (203) 743-4458

PROTECTIVE ORDER

The foregoing having come before this court, it is hereby ORDERED:

1. Nondisclosure to defendants the additional trade secrets of plaintiff without signed confidential agreement first.

GRANTED/DENIED

2. Not disclose to defendants plaintiff's trade secrets not relevant to subject matter of complaint

GRANTED/DENIED

3. Not to disclose information which may cause plaintiff's undue expense

GRANTED/DENIED

ALL THREE DENIED

By the Court Judge s/Patrick L. Carrol, 6/27/00

Docket No. CV 98 0333637 SOLEG SOKOLOV, Plaintiff, v. TREX MEDICAL CO., and THERMOTREX CO., Defendants (as amended)
STATE OF CONNECTICUT SUPERIOR COURT J. B. OF DANBURY AT DANBURY

June 15, 2000

DEFENDANTS' OBJECTION TO PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

(Record # 147)

Defendants hereby object to plaintiff Motion for Protective Order dated June 5, 2000, which is, in effect, an improper attempt to circumvent Judge Moraghan's May 30, 2000 order that plaintiff appear for deposition and produce documents

ORDER

The foregoing objection having come before this Court, it is hereby ORDERED:

SUSTAINED/OVERRULED

SUSTAINED.

Note motion for protective order dated June 5, 2000 (# 142) has been denied by Carrol P. on June 27, 2000.

By the Court Judge s/Howard J. Moraghan, 7- 3-00.

OLEG SOKOLOV, Plaintiff, vs TREX MEDICAL CO., and THERMOTREX CO., (as amended), Defendants STATE OF CONNECTICUTSUPERIOR COURT J. B. OF DANBURY AT DANBURY **Docket No. CV 98 0333637S**

PLAINTIFF'S OPPOSITION IN REPLY TO DEFENDANTS' OBJECTION TO PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

(Record # 149)

June 21, 1999

Plaintiff hereby oppose the defendants' objection dated June 15, 2000 and states that he strictly followed the Court Order on May 30, 2000 (Judge Moraghan) and fully supplied defendants with all requested by them documents even part of them should be rejected as not relative to plaintiff's complaint. Number of provided documents see Exhibit 1 plaintiff's motion for default at June 12, 2000 page 3 last paragraph; Exhibit 2 list of documents provided by plaintiff to defendants in his answers on July 26, 1999; Exhibit 3 notice of Compliance with Supplemental Responses to defendants' first set of interrogatories to plaintiff filed June 8, 2000; Exhibit 4 notice of Compliance with Supplemental Responses to defendants' first set of requests to plaintiff for production of documents filed June 8, 2000; Exhibit 5 notice of Compliance with Supplemental Responses to defendants' second set of interrogatories to plaintiff filed June 8, 2000.

Plaintiff states also that he never attempted in any manner to circumvent the Order of Judge Moraghan on May 30, 2000, in fact plaintiff strictly performed the Judge's Moraghan Order and more than fully supplied defendants on June 8, 2000 by additional to previously produced kit of at least 36 documents about 357 pages for all 36 defendants' requests, totally plaintiff provided

to defendants with at least 47 kits of documents of about at least 380 pages all related to his Technology but much more than necessary to confirm his complaint.
Plaintiff states also that Court Order by 05/30/2000 doesn't contain any command to plaintiff to produce the documents which contain confidential information not disclosed by plaintiff till this time to defendants in addition to information already misappropriated by defendants without protection of plaintiff's rights as exclusive owner of his intellectual property (Exhibit 6, Court Order by 05/30/2000), and only several of requested by defendants documents about production of documents which contains not disclosed before to defendants plaintiff's intellectual property which are not relevant now to plaintiff's complaint are in pending for Court Protective Order asked by plaintiff in his motion on June 5, 2000 pursuant p.13-5 (7) and p. 13-5 (1) of Practice Book.
Plaintiff states forth that in contrary to his full production of documents to defendants they produced only one single document of two pages on his request about production of 12 kits of documents (Exhibit 1 pages 1-3) and that all for period during more that 12 months, and in the reason that he cannot obtain almost all requested documents from defendants during more than one year plaintiff filed to this Court at June 12, 2000 motion of default and plaintiff's costs of the motion (Exhibit 1).

.....

Plaintiff believes that defendants attack against plaintiff's motion for protective order is part of their attempts to receive from plaintiff additional information about his trade secrets for growth their business without any rewards to plaintiff and to create the situation if they will not receive his additional trade secrets to try to

dismiss plaintiff 's complaint against defendants. Plaintiff believes that in fact this is attack against fundamentals of law about exclusive rights of owners of intellectual properties. Plaintiff believes that Court will stop this action of defendants and protect plaintiff's rights as exclusive owner of his intellectual property against defendants' attacks and will help plaintiff to find justice against defendants.

CONCLUSION

For the foregoing reasons Plaintiff respectfully requests that Court deny defendants' objection to plaintiff's motion for protective order on June 15, 2000 and grant plaintiff's motion for Protective Order on June 5, 2000 and motion for default and plaintiff's cost of motion on June 12, 2000.

PLAINTIFF *pro se* s/Oleg Sokolov, 28 Rose Lane # 38, Danbury, CT 06811, (203) 743-4458

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing PLAINTIFF'S OPPOSITION IN REPLY TO DEFENDANTS' OBJECTION TO PLAINTIFF'S MOTION FOR PROTECTIVE ORDER was this day served upon attorney for defendants by mailing to him a true copy thereof, by first class mail, postage pre-paid, addressed as follows: William J Speranza of Wiggin & Dana, P. O. Box 110325, Three Stamford Plaza Stamford, CT 06911-0325.

Date: June 21, 2000 s/Oleg Sokolov, Plaintiff *pro se*

OBJECTION HAS BEEN SUSTAINED THIS DATE 7-3-00, Judge s/Howard J. Moraghan

OLEG SOKOLOV, Plaintiff, vs. TREX MEDICAL CO., THERMOTREX CO. (as amended), Defendants
STATE OF CONNECTICUT SUPERIOR COURT J. B. OF DANBURYAT DANBURY
Docket No. CV 98 0333637 S
MOTION OF DEFAULT AND PLAINTIFF'S COSTS OF THE MOTION

June 12, 2000

Record, pages 109 - 110

ORAL ARGUMENTS REQUESTED

During 12 months plaintiff cannot obtain from defendants documents on his discovery request on June 14, 1999. Plaintiff reminded to defendants about that number of times and no answer plaintiff received.
For the reasons set forth in the memorandum plaintiff respectfully asks the Court sanction to defendants as follows:
1. Pursuant to p. 10-18 and 13-14 (b)(1) of Practice Book to enter default against defendant.
2. Pursuant to p. 13- 14 (b)(2) of Practice Book the Court, in its discretion, should additionally consider an award to plaintiff his costs of the motion.
PLAINTIFF *pro se* s/ Oleg Sokolov, 28 Rose Lane # 38, Danbury, CT 06811

ORDER

The foregoing having come before this court, it is hereby ORDERED:
1. Motion of default GRANTED/DENIED
2. Award the plaintiff's costs for motion GRANTED/DENIED

By the Court _____
Judge/Clerk

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing MOTION OF DEFAULT AND PLAINTIFF'S COSTS OF THE MOTION was this day served upon attorneys for defendants by mailing to them a true copy thereof, by first class mail, postage pre-paid, addressed as follows: William J Speranza of Wiggin & Dana, P. O. Box 110325, Three Stamford Plaza, Stamford, CT 06911-0325.

Date 06/12/00 s/Oleg Sokolov, Plaintiff *pro se*

MEMORANDUM IN SUPPORT TO MOTION OF DEFAULT AND PLAINTIFF'S COSTS OF THE MOTION

Plaintiff has to state that till this time defendants didn't complete most of plaintiff's discovery request: they didn't answer to very important question 27 of plaintiff's interrogatories (about increasing of earnings of defendants with Technology as plaintiff claims misappropriated from him) and they produced only one document (Exhibit U) of list of 12 kits of documents requested by plaintiff which are indicated below (Exhibit T, 12 pages):

1. All documents related to design of manufactured by defendants cellular x-ray grids (named by defendant "HTC Cellular Grid System"), their structures, dimensions, tolerances and relation between elements of them.
2. All documents related to patterns of cellular x-ray grids and formulas of angles of inclination of partitions.
3. All documents related to speed of movement of cellular x-ray grid during the exposure time.
4. All documents related to methods, processes and technique of producing of cellular x-ray grids.
5. All documents related to design of tools for producing of cellular x-ray grids.

6. All documents related to methods of research for obtaining of positive results in Cellular x-ray Grid Technology.
7. All documents related to major changing in defendants' x-ray machines in connection with cellular x-ray grids.
8. All documents related to application of defendants' x-ray machines with cellular x-ray grids.
9. The samples of all kinds of x-ray cellular grids manufactured by Defendants.
10. All documents related to payment by Defendant to former Patent agent of Plaintiff Mr. Zborovsky for transferring by him to Defendant the Plaintiff's Patent documents (US in pending and Soviet).
11. All documents related to increasing of earnings and profits of Defendant in connection with using Cellular x-ray Grid Technology.
12. All documents related to applications (including Patent application) of multilayer mammography filter created by Plaintiff for Defendant.

Refusal by defendants to product the documents is shown in attached Exhibit T defendants' objections and responses to plaintiff's requests of production. For all his requests plaintiff received only one document from required kit in p.10 of plaintiff's request (Exhibit U).

About not completed by defendants his discovery request plaintiff informed defendants and stated to court in his opposition in Reply to the Motion for order of deposition on November 16, 1999 (Exhibit V, p. 7), in his letter to defendants on February 13, 2000 (Exhibit V, page 1L), in Motion for Protective Order on March 15, 2000 (Exhibit W, page 2 last paragraph, page 3 paragraphs first and second), in his objections to motion

for dismissal or nonsuit on May 24, 2000 (Exhibit X,Y,Z, pages 5-7) and in his Oral Arguments on Short Calendar on May 30, 2000.

To date, more exactly on March 02, 00 defendants produced only several of documents which are related to subject matter of plaintiff's complaint and only one of these several (Exhibit U) is different from documents forwarded to defendants before on July 26, 1999 by plaintiff or on 1993 by former patent agent of plaintiff Mr. Zborovsky, other documents produced by defendants have no relation with matter of plaintiff's claimed trade secrets there are public marketing advertising of defendants, articles from magazines and plaintiff's and defendants' patents which weren't required by plaintiff because he has them in his possession.

In contrary plaintiff to date fully responded to defendants' discovery request and provided defendants with at least 47 kits of documents of about 380 pages directly related to subject matter of all 36 paragraphs of defendants request of production and responded all questions of first and second sets of defendants' interrogatories. Plaintiff only asks Court to protect against farther misappropriation by defendants his intellectual property and moved on June 5, 2000 with motion for protective order (Exhibit Mc) against disclosure to defendants his additional trade secrets which are not related to subject matter of his complaint or information which may cause to plaintiff undue expense or to disclose to defendants his additional trade secrets which are related to subject matter of his complaint only under signed nondisclosure agreement between parties.

In the base on described above plaintiff states that defendant systematically refused to provide to plaintiff

many times required by him fundamental information which clearly would show the identify of plaintiff's claimed trade secrets and defendants' marketed products to confirm the facts of misappropriating as well as benefits which defendants have from misappropriated plaintiff's intellectual property which are his trade secrets.

CONCLUSION

As an evidences from indicated above are attached copies of documents which clearly shows that defendants has consistently flouted the rules of discovery and failed to comply with their obligations under those rules. This has gone a long time during 12 month, and is not fair to the Court or to plaintiff. For the foregoing reasons, pursuant to the Practice Book p. 13-14, plaintiff asks the Court to sanctions against defendants as follows:

1. Pursuant to p. 10-18 and 13-14 (b)(1) of Practice Book to enter default against defendant.
2. Pursuant to p. 13- 14 (b)(2) of Practice Book the Court, in its discretion, should additionally consider an award to plaintiff his costs of the motion.

PLAINTIFF *pro se* s/Oleg Sokolov, 28 Rose Lane # 38, Danbury, CT 06811

CERTIFICATE OF SERVICE

It is hereby certified that the foregoing MEMORANDUM IN SUPPORT TO MOTION OF DEFAULT AND PLAINTIFF'S COSTS OF THE MOTION was this day served upon attorney for defendants by mailing to them a true copy thereof, by first class, postage pre-paid mail, addressed as follows: William J. Speranza of Wiggin & Dana, P. O. Box 110325, Three Stamford Plaza Stamford, CT 06911-0325

Date 06/12/00, s/Oleg Sokolov, Plaintiff *pro se*

Coy of letter from Wiggin & Dana
February 25, 2000

Mr. Oleg Sokolov
28 Rose Lane # 38
Danbury, CT 06811

Re: Sokolov v. Trex Medical Corp. et al.

Quotation:

"We will not be sending the HTC system grid sample. As previously advised, you may inspect the sample at my office upon reasonable advance notice".

Sincerely,
s/William Speranza*)

*)W. Speranza - attorney for defendants.

QUOTATIONS FROM TRANSCRIPT OF DEPOSITION ON JUNE 8, 2000:

Page 291: *)Q. You are not going to produce it to us in any way in which we can actually measure the angles of inclination, the thicknesses –

**)A. Yes.

Q. You are refusing to do that unless you have a confidential agreement?

Page 292: A. But in addition to which I told before, I said before I will not to show any anything before I will received the signed confidential agreement. Now I am ready to show you under the rules of court, to bring the discovery, I will show you, you will see them. Only one question, do you have magnifier here?

Q. Yeah, I don't want into this just now to be honest with you, Mr. Sokolov.

A. But I have with me–

Q. I understand that...

Page 293: A...Second point about pattern. But pattern is artistic art. And I will show my pattern and you will see the pattern of grid which you have with magnifier, you will see identical. If you would like I will show you. If you don't like, I will not show.

But I ask to indicate in transcript that I have them with me and I brought here, but I ask court for rules how can I allow to my instrumental measurement, how can I allow to show the product which are not related to this case?

Q. Slow dawn. What is not related to this case?

A. The grid for general purposes.

Page 296: Q. I don't understand what you are saying.

A. ...Pattern I can submit for observation in this moment. I am ready....

---

*)Q.- defendants

**)A. - plaintiff

OLEG SOKOLOV Copy
28 Rose Lane # 38
Danbury, CT 0681128
Tel., Fax (203) 743-4458

Mr. William J. Speranza
Wiggin & Dana
Three Stamford Plaza
P.O. Box 110325
Stamford, CT 06911-0325

July 26, 2000

RE-: Sokolov v. Trex Medical Co., at al. Docket No. CV-98-0333637 S

Dear Mr. Speranza:

In response to your letter on July 17, 2000 I have to indicate that in my best knowledge I don't have any withholding information in connection with your first and second requests of interrogatories and production dated January 5, 1999 and September 1, 1999 accordingly even I believe that essential part of them don't relate to subject matter of complaint.

In more details following to Court Order on May 30, 2000 (Judge Moraghan) even I filed the Motion for Protective Order on June 5, 2000 I produced in full all documents which I have in my possession on all 5 interrogatories and 36 requests for production of first set of defendant's requests and all 6 interrogatories and requests of second set of defendant's requests even some of them I supposed had to be covered by named above motion of protective order, including submitting sample of my cellular grid for mammography during the deposition on June 8, 2000 for inspect of it pattern (pattern of my grid is one of two of my today claims of

misappropriation of my trade secrets) as response on interrogatory # 5 (l) of defendants' first set.

You rejected to inspect pattern of named grid supported by X-ray picture of it submitted by me during deposition on June 8, 2000 (pages 291-292, 357-358 of deposition on June 8, 2000,) therefore actually you don't need to inspect it, and I believe I am free now not to produce it second time.

If you believe that I didn't produce some documents which you required in named above your requests and I have them in my possession please provide me with detail list of each document you required and I didn't produced with date and number of your request of each of such document advisable with date of issue of required document. I personally didn't find any single document requested in named above your request which I have in my possession and which I didn't produce to you.

In the same time as you rejected to inspect my grid in my presence and advised me to send my grid to you for your inspection with my absence (your letter on 07/17/00), you rejected to send sample of your grid to me for my inspection in your absence and you insist to review your grid only in your office with your presence (your letter on 02/25/00).

Looks like you propose double standards: one for plaintiff another for defendants.

The same double standards you provide with production of documents: when I produced at least 47 kits documents (really it much more) of about 380 pages all of them requested by you and no one document which you didn't request, you produced almost nothing of list of requested by me documents: only one document for paragraph 10 and nothing on other 11 paragraphs from 12 paragraphs of my requests; instead

producing requested by me documents you produced huge number of papers which weren't require by me and which mostly not related to subject matter of my complaint only took my time for their inspection and give nothing for clarification any single paragraph in any count of named complaint (see my analyzes of your production in my affidavit in support to Motion of default filed July 3, 2000).

Now I assume that you will immediate product all requested by me documents including samples of all kinds of cellular X-ray grids manufactured by ThermoElectron and installed in X-ray machines of Trex Medical beginning 1995 till this time as requires my request of production on June 14, 1999.

In spite of that you rejected to inspect pattern of submitted by me grid I' m ready to submit one more time sample of my mammography grid for inspection of it pattern but only in normal way of inspection which will exclude the false of results of inspection and also possibility of misappropriation of my additional trade secrets and my second grid itself. I am ready to submit second time my second grid only together with submitting by you your grids for joint inspection of pattern which have to be provided together by both parties: myself and your experts. Submission and inspection of grids of both parties must be made on the same time in the same place with the same equipment with the same procedures by the same personnel under the detail control by myself and your experts of all steps of procedure following specification agreed and signed in advance by both parties and all obtained during the inspection results should be signed by experts of both parties. Only this way will protect against false results of inspection and possibility of disappearing second of my grids as it took place with my first grid during the medical trials in NYU Medical Center.

During inspection each party cannot work with grid of another party without another party permission and participation. Permission of each single work with grid of another party should be made by owner of inspected grid with written document in which should be indicated date, time and person to whom permitted to work. During inspection each party is owner of it grid and nobody can take grid of another party from the place of inspection excluding owner of each of inspecting grid. Each party is free to stop inspection and to take it grid from the place of inspection in any reasonable reason at any time.

After inspection I will take my grid with me from the place of inspection and nobody has the right to take it from me.

Sincerely yours,

s/Oleg Sokolov
Plaintiff pro *se*

Copy of letter from Wiggin & Dana
July 29,1999

Mr. Oleg Sokolov
28 Rose Lane # 38
Danbury, CT 06811

Re: Sokolov v. Trex Medical Corp. et al.

Quotation
Dear Mr. Sokolov:

Thank you for your response to defendants' discovery requests. As I explained when we conferred by telephone about your discovery objections on July 14, defendants are not interested in the disclosure of, or documents relating to, any trade secrets other than those you claim defendants have misappropriated. You agreed that you would provide the request information and documents with that limitation. We therefore are proceeding on the assumption that the discovery information you have now provided constitutes your full identification of what you consider to have been misappropriated by defendants, namely:
1. "Movable Cellular grid filled by air for x-ray technologies.
2. Pattern of movable cellular grid filled by air for x-ray technologies; and
3. Method of producing of cellular grids filled by air with using exposure of photosensitive materials by electromagnetic radiation."

Very Truly yours,
Bethany L. Appleby*)

---

*)B. Appleby - attorney for defendants

ORDER

Sokolov, Oleg vs. Lorad Division of TR cv-98-0333637-S. The defendant's motion to dismiss (#139.00) having been heard, it is hereby ordered: the deposition of the plaintiff is to take place at 9:00 AM on June 8, 2000 in the defendant's attorney's office located at 3 Stamford Place, 301 Tresser Boulevard, Stamford, CT 06901. The plaintiff is to produce documentation in response to discovery and submit to the deposition or the case will be dismissed at the end of June 2000.
By the Court (Moraghan, J. - 5/30/00).
Diane D. Savinelli (temp. asst. clerk)
Superior Court 146 White Street Danbury, Connecticut 06810.
Dated: June 01, 2000.

Page 17 line 15 to the end of page, page 18 lines 1 - 6:

Upon reflection, we conclude that the broad abuse of discretion standard that we have been employing for the imposition of sanctions for violation of discovery orders, and for our appellate review thereof, is inaccurate, because it masks several different questions that in fact are involved in the question of when a court is justified in imposing such sanctions. We therefore now take the opportunity to clarify that standard by articulating those specific questions. In order for a trial court's order of sanctions of violation of a discovery order to withstand scrutiny, three requirements must be met.

First, the order to be complied with must be reasonably clear. In this connection, however, we also state that even an order that does not meet this standard may form the basic of sanctions if the record established that , notwithstanding the lack of such clarity, the party sanctioned in fact understood the trial court intended meaning. This requirement poses a legal question that we will review do novo.

Second, the record must establish that the order was in fact violated. This requirement poses a question of fact that we will review using a clearly erroneous standard of review.

Third, the sanctions imposed must be proportional to the violation. This requirement poses a question of the discretion of the trial court that we will review for abuse of that discretion.

OLEG SOKOLOV, Plaintiff, vs.TREX MEDICAL CO., THERMOTREX CO., (as amended)
Defendants
STATE OF CONNECTICUT SUPERIOR COURT J. B. OF DANBURYAT DANBURY
Docket No. CV 98 0333637 S

PLAINTIFF OBJECTIONS TO RENEWED MOTION FOR DISMISSAL

August 7, 2000
ORAL ARGUMENT REQUESTED

On May 10, 2000 defendants filed Motion for dismissal on reason of not full production of documents by plaintiff and on May 30, 2000 Judge Moraghan ordered: The deposition of the plaintiff is to take place at 9:00 AM on June 8, 2000 in the defendant's attorney office located at 3 Stamford Place, 301 Tresser Boulevard, Stamford, CT 06901. The plaintiff is to produce documentation in response to discovery and submit to the deposition or case will be dismissed at the end of June 2000 (Exhibit 1).

Because part of required documents contain the additional trade secrets which may be misappropriated by defendants if no protection and another part of them contains additional trade secrets and absolutely no relevant to subject matter of complaint and to plaintiff's business with defendants plaintiff filed with Court on June 5, 2000 the motion for protective order (Exhibit 2) for protect his intellectual property against continue of misappropriation by defendants.

This motion was sustained by Judge Moraghan on 07/03/00 through the sustained plaintiff's opposition to defendants' objection of named his motion of protective order (Exhibit 3, # 149-00 sustained plaintiff opposition

to defendants objections to plaintiff motion of protective order filed 06/21/00; Exhibit 4 where in conclusion of sustained plaintiffs motion of protective order on page 4 indicated:

"...plaintiff respectfully requests that Court deny defendants' objection to plaintiff's motion for protective order on June 15, 2000 and grant plaintiff's motion for protective order on June 5, 2000 and motion for default and plaintiff's cost of motion on June 12, 2000.").

Nevertheless that beginning June 5, 2000 plaintiff was in pending for Court's protective order he following Court Order on May 30, 2000 (Judge Moraghan) on June 8, 2000 had submitted to defendants in full all requested by them additional about 40 documents on 357 pages and sample of his grid accompanied with it X-ray picture for inspection by defendants pattern of grid to compare with pattern of defendants' grid for determination their identity. Defendants accepted all documents but rejected to inspect the pattern of submitted grid (from the Exhibit 5 transcript of deposition):

A: I am ready to show now for observation a grid, the pattern of mammography. (Exhibit 5, page 291 of deposition).

A: In addition which I told before, I said before I will not show anything before I will receive the signed confidential agreement. Now I am ready to show you under the rules of court, to bring the discovery, I will show you, you will see them.

Q. Yeah, I don't want to go into this just now to be honest with you, Mr. Sokolov. (Exhibit 5, page 292, lines 1-10).

This rejection of inspection of plaintiff's grid obviously indicates that inspection had to show the similarity of patterns of plaintiff's and defendants grids therefore it

had to show the misappropriation of this plaintiff's trade secret but defendants try to avoid the inspection of plaintiff's grid in compare with defendants' grid. Plaintiff has to state that submitted by him grid is only one paragraph of 36 paragraphs of requested by defendants and delivered by plaintiff documents and that pattern of his grid is not only one of claimed by plaintiff misappropriated his trade secrets as try to focus defendants with claiming no submitting by plaintiff sample of grid. Another misappropriated from plaintiff his trade secret which is first and basic among the plaintiff's trade secrets is the plaintiff's detailed concept of cellular grid filled by air about which defendants didn't tell to Court anything in opposed here motion because misappropriation of this trade secret is clearly indicated in submitted by plaintiff documents and cannot be rejected by any reasons.

In their efforts to find some way to prepare their new position after plaintiff following Court Order (Judge Moraghan) on May 30, 2000 submitted all documents in full on June 8, 2000 and sample of grid required by defendants they asked Court about modification of schedule order till August 31, 2000 (Exhibit 6, Defendants' Motion for modification of Scheduling order on June 20,2000).

During extended time they sent to plaintiff formal letter for producing additional documents (Exhibit 7, letter of defendants on July 17, 2000) and plaintiff confirmed that he produced discovery in full and proposed simultaneous comparative inspection of his and defendants grids (Exhibit 8, letter of plaintiff on July 26, 2000).

Now defendants filed on August 1, 2000 opposed here renewed motion for dismissal for reason of not completed discovery because plaintiff "didn't submit"

rejected by them really submitted by plaintiff grid (see explanation above). In their renewed motion for dismissal defendants not only ignored the fact that plaintiff fully completed their request of discovery including submitting of grid, they also ignored protective order sustained by Judge Moraghan 07/03/2000 notice issued 07/27/2000 for confidential information with plaintiff's trade secrets which includes plaintiff 's grid. Notice on 07/27/00 defendants should definitely received before August 1, 2000 when they issued their named above motion.
In the same time as plaintiff completed all 36 paragraphs of requests of defendants they completed only one paragraph of twelve paragraphs of plaintiff request of production on June 14, 1999. In this reason plaintiff filed on June 12, 2000 Motion of default and plaintiff's costs of the motion (Exhibit 9).

CONCLUSION

In reason of foregoing plaintiff asks Court to grant these objections and to deny the defendants' Renewed Motion for dismissal filed August 1, 2000.
Plaintiff *pro se* s/Oleg Sokolov, 28 Rose Lane # 38, Danbury, CT 06811, 203-743-4458

ORDER

The foregoing Motion having been presented and considered by the Court, it is hereby ORDERED:
Overruled - Case has already been dismissed by J. Moraghan.
BY THE COURT Judge s/Patrick Carrol 9-1-00.